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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,427	06/27/2003	Raymond A. Ruscito SR.	21-0131	7954

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EXAMINER

NGUYEN, CHI Q

ART UNIT PAPER NUMBER

3635

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/609,427

Applicant(s)

RUSCITO, RAYMOND A.

Examiner

Chi Q Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18 is/are allowed.
- 6) ☒ Claim(s) 1-4, 7 and 8 is/are rejected.
- 7) ☒ Claim(s) 9-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Exhibits A, B

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DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, and 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Gray (US 6,374,433).

In regarding claim 1, Gray teaches moveable cover structure comprising a pair of support assemblies each having a base portion 46, a rail member 42a, 42b; the rail member being coupled to the base portion of each of the support assemblies, at least one panel assembly 12 slidably coupling to the rail member 42a, 42b of each of the support assemblies such that the panel assembly is positioned between the support assemblies, the panel assembly being slidably positionable along a length of the rail member 42a, 42b of each of the support assemblies (see fig. 1).

In regarding claim 2, the panel assembly 12 having frame member 32a, 32b, 34a, 34b providing structural support for the panel assembly 12. The frame member having a pair of side portions 32a, 32b, and a pair of end portions 34a, 34b.

In regarding claims 3, 4, 7, and 8, the panel assembly 12 having a plurality of roller members, each of the roller members being coupled to one of the side

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portions 32a, 32b (fig. 5) of the frame member such that each of the roller member engages the rail member 42a, 42b, of the support assemblies. The roller members having a wheel 36 and an axle (see attached fig. 5) are coupled together, the axle of each of the rollers members being to one of the side portions of the frame member. The panel assembly 12 having a cover member 16; the cover member 16 being coupled to the frame member 32a, 32b, 34a, 34b via wall members 14a-14d. The cover member 16 of the panel assembly 12 having an overhang (see attached fig. 1) extending from one of the side portions of the frame member.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gray (US 6,374,433) in view of Ruffner (US 6,053,235).

In regarding claim 5, Gray teaches the structural elements for the moveable structure as discussed above. However, Gray does not teach expressly the panel assembly having a plurality of sleeve members receiving the axle of one of said roller members. Ruffner teaches a convertible panel having a panel assembly 10, a track assembly 30, a roller assembly 40 including bearing assembly having sleeves members for receiving axle 43 as shown in figs. 1 and

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8. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Gray with Ruffner for the bearing or sleeve members. The motivation for doing so would have been to protect the axle members being wore down due to the thermal frictions.

In regarding to claim 6, Gray and Ruffner teach the structural elements for the moveable structures except for the sleeve portions being positioned at an acute angle to a bottom face of the frame member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to adjust the sleeve portions in respect to the frame member, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens, 101 USPQ 284 (CCPA 1954)*. The motivation for doing so would have been to accommodate the axle and the roller with the track thus providing a smooth operation.

Allowable Subject Matter

Claims 9-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 18 is allowed.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Whitley et al (US 6,629,387), Martin (US 6,540,003), Manzo (US 5,848,630), and Malott (US 5,732,756) teach slidable panels.

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Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (703) 605-1224, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (703) 308-0839. The fax number for the organization where this application or proceeding assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

CQN
8/4/04



Carl D. Friedman
Supervisory Patent Examiner
Group 3600

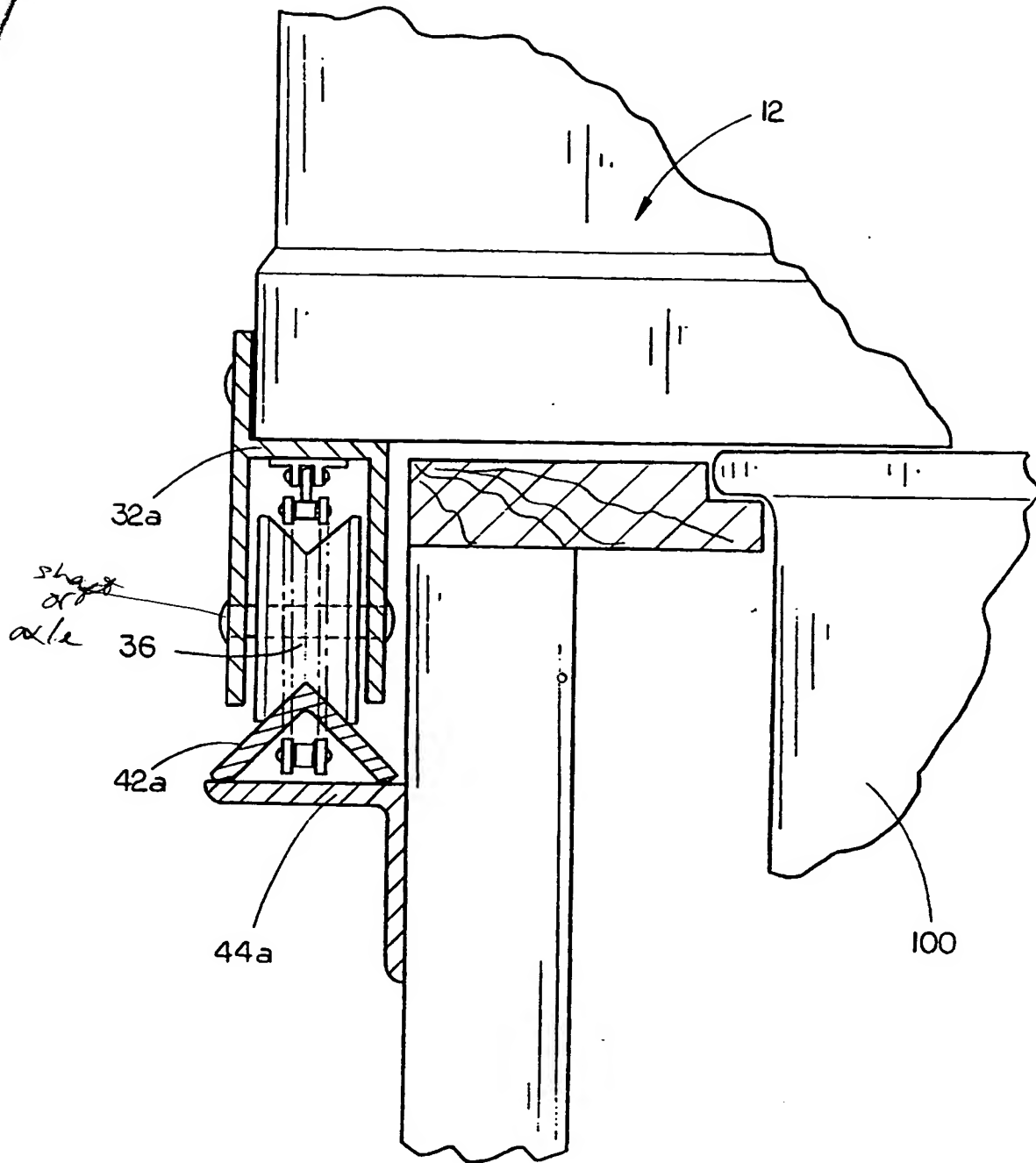


FIG. 5

Exhibit B